

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

| | | |
|------------------------------|---|------------------------|
| REALTIME DATA LLC d/b/a IXO, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 17-1635 (GMS) |
| |) | |
| FORTINET, INC. |) | |
| |) | |
| Defendant. |) | |

**DECLARATION OF WILLIAM COOPER IN SUPPORT OF
DEFENDANT FORTINET, INC.'S MOTION TO TRANSFER**

1. My name is William Cooper. I am employed by Fortinet, Inc. ("Fortinet") as Director of Litigation, Intellectual Property, and Privacy. I have been an employee and in-house attorney for Fortinet since October 16, 2017. Prior to joining Fortinet, I represented the company as outside counsel.

2. My duties include in-house legal representation of Fortinet across a broad range of legal disciplines, with an emphasis on intellectual property and litigation matters.

3. I reside in Moraga, California, and work at Fortinet's headquarters in Sunnyvale, California.

4. The facts set forth in this declaration are based on my personal knowledge, on information contained in the business records of Fortinet, or on discussions I had with other Fortinet personnel with such knowledge for purposes of investigating factual matters relevant to this declaration. If called as a witness, I could and would testify competently to the substance of this declaration

5. Fortinet's principal place of business is in Sunnyvale, California, and the company is incorporated under Delaware law.

6. The majority of Fortinet's United States employees devoted to engineering, finance, operations, manufacturing, and marketing work in California, including at Fortinet's headquarters in Sunnyvale and its office in Union City. Both Sunnyvale and Union City are in the San Francisco Bay Area, and both are located in the Northern District of California. Outside of the United States, the principal location for employees devoted to engineering and research and development is Vancouver, Canada.

7. The importance of Fortinet's headquarters in Sunnyvale, California, and, more generally, its employees in California is difficult to exaggerate. Fortinet's executive leadership team works at headquarters. Fortinet's Board of Directors meets in Sunnyvale every quarter. The majority of Fortinet's United States employees who research, design, and develop products work in Sunnyvale, California. Similarly, the majority of Fortinet's United States employees devoted to finance, operations, manufacturing, and marketing work in Sunnyvale, California.

8. I understand that Plaintiff Realtime Data, LLC d/b/a IXO ("Realtime") has accused certain Fortinet products, including FortiGate and FortiOS system products, of infringing Realtime's patents.

9. Numerous Fortinet employees with knowledge regarding the accused FortiGate and FortiOS system products—including employees who designed, developed, commercialized, and marketed these products and senior employees in the marketing, finance, and products divisions—work at Fortinet's headquarters in Sunnyvale, California. I am aware of not a single Fortinet employee with relevant, unique testimony for this case located in Delaware.

10. A large volume of the documents in Fortinet's control or possession relating to the design, development, commercialization, and marketing of the accused Fortinet products, including underlying source code, is stored on servers and computers physically located in or

near Sunnyvale, California. In addition, hard copies of relevant documents are also found in Fortinet's Sunnyvale, California headquarters. Additional documents and source code are located in other areas including Burnaby (just outside of Vancouver, British Columbia, Canada).

11. While Fortinet is a Delaware Corporation, I am only aware of one employee working in Delaware, whose title is Systems Engineer II. Moreover, I am not aware of any relevant documents present in Delaware that are not also found in California.

12. Other than Realtime's lawsuit against Fortinet, Fortinet currently has no other pending litigation in the District of Delaware. Previously, Fortinet filed one lawsuit in the District of Delaware, *Fortinet, Inc. v. FireEye, Inc.*, Case No. 1:12-cv-01066-SLR. That lawsuit is no longer pending. Fortinet has also previously participated as a defendant and sometimes counter-claimant in the following lawsuits filed in the District of Delaware, none of which are pending: *Spycurity LLC v. Fortinet, Inc.*, Case No. 1:17-cv-00885-LPS-CJB; *Enhanced Security Research LLC v. Cisco Systems Inc.*, Case No. 1:09-cv-00390-LPS; *Enhanced Security Research LLC v. Cisco Systems Inc.*, Case No. 1:09-cv-00571-LPS; *Innovative Wireless Solutions LLC v. Fortinet Inc.*, Case No. 1:13-cv-01862-RGA; *Sophos Ltd. v. Fortinet Inc.*, Case No. 1:14-cv-00100-GMS; *Selene Communication Technologies LLC v. Fortinet Inc.*, Case No. 1:14-cv-00433-LPS; *Alcatel-Lucent USA Inc. v. Fortinet, Inc.*, Case No. 1:14-cv-00574-LPS; *International License Exchange of Am., LLC v. Fortinet Inc.*, Case No. 1:16-cv-00795-RGA.

13. Litigating this matter in the Northern District of California, the location of Fortinet's headquarters, will save Fortinet significant time and expense, and will minimize disruption to Fortinet employees (as compared to litigating the case in Delaware) as they continue with their ongoing duties.

I declare under penalty of perjury that the foregoing is true and correct. Signed this 20 day of February, 2018, in Sunnyvale, California.

/s/ William Cooper

William Cooper

CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2018, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on February 20, 2018, upon the following in the manner indicated:

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